

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

LEE MAX BARNETT,

Petitioner,

v.

RON BROOMFELD,

Respondent.

No. 2:99-cv-02416-DAD-DMC (HC) (DP)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND GRANTING  
PETITIONER'S MOTION FOR STAY AND  
ABEYANCE

(Doc. Nos. 397, 403)

Petitioner Lee Max Barnett is a state prisoner proceeding with counsel with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On August 3, 2022, the assigned magistrate judge issued findings and recommendations, recommending that petitioner's motion for a stay and abeyance order be granted. (Doc. Nos. 397, 403.) The findings and recommendations were served on the parties and contained notice that any objections were to be filed within fourteen (14) days from the date of service of that order. To date, no party has filed objections, and the time in which to do so has now passed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and proper analysis.

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1 Accordingly,

2 1. The findings and recommendations issued on August 3, 2022 (Doc. No. 402) are  
3 adopted in full;

4 2. Petitioner's motion for stay and abeyance to permit exhaustion of claims in state  
5 court, filed November 22, 2021 (Doc. No. 397) is granted;

6 3. This action is stayed pursuant to *Kelly v. Small*, 315 F.3d 1063 (9th Cir. 2003),  
7 *overruled on other grounds by Robbins v. Carrey*, 481 F.3d 1143 (9th Cir. 2007);

8 4. Petitioner is directed to file a status report within ninety (90) days of the date of  
9 this order advising the court the status of the state court proceedings, and shall file  
10 an additional status report every ninety (90) days thereafter; and

11 5. Within thirty (30) days after the state court issues a final order resolving the  
12 unexhausted claims, petitioner shall file a motion to lift the stay and an amended  
13 habeas petition setting forth all exhausted claims.

14 IT IS SO ORDERED.

15 Dated: January 23, 2023

  
16 Dale A. Droyd  
UNITED STATES DISTRICT JUDGE

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